



## ENABLERS ACT

*Confronting the “Enablers” of International Money Laundering & Putin’s Kleptocrats*

*Rep Malinowski & Rep Salazar*

**CO/SPONSORS:** Malinowski, Salazar, Cohen, Wilson, Spanberger, Hudson

**SUMMARY:** The [ENABLERS Act](#) closes a key loophole identified by anti-corruption experts and the President’s anti-corruption strategy: While American banks are required to conduct due diligence to make sure the money they accept is not “dirty,” other *enablers* do not have such obligations. As a result, American private equity advisors to Putin’s oligarchs were under zero legal obligation to make sure money they’re offered isn’t linked to criminal activity. And American investment advisors didn’t have to ask questions when they helped Russian oligarch Roman Abramovich pilfer billions and stash it in U.S. hedge funds.

As a result of these loopholes, the US is the top destination globally for dirty money. The bill’s core objective and operative elements are simple: They close these loopholes and bring a few American enabling industries into compliance with our international commitments to fighting global money laundering.

### KEY REFERENCES:

- [United States Strategy on Countering Corruption](#) (White House, Dec 2021): “...lawyers, accountants, trust and company service providers, incorporators... are not required to understand the nature or source of income of their clients... **the Administration will consider additional authorities to cover key gatekeepers, working with the Congress as necessary...**”
- [U.S. Real Estate Secrecy Links Global Corruption, Domestic Inequality](#) (Gabe Lezra, Just Security): “**The ENABLERS Act** would impose common-sense “know your customer” and other anti-money laundering requirements onto the people and industries that help facilitate the flow of corrupt and illegal money into the [US].”

- [Biden Wants to Crack Down on Foreign Corruption. Here's How](#) (Scott Greytak, Transparency Intl): “**ENABLERS Act** would modernize our anti-money laundering laws to require those who serve as gatekeepers... to help detect and prevent the laundering of corrupt and other criminal funds into the U.S.”
- [Regulating the Enablers](#) (Josh Rudolph, GMF Alliance for Securing Democracy): “Congress should move toward legislation imposing AML obligations on all ten sectors of enablers...”
- [Targeting Putin’s Kleptocracy](#) (Nate Sibley, Hudson Kleptocracy Initiative): “...Extend anti-money laundering responsibilities beyond banks to include the legal, real estate, fund management, lobbying, art and antiques, and luxury goods sectors.”

### The New York Times

“...as the United States and other countries impose sanctions on those close to President Vladimir V. Putin of Russia, hunting down these fortunes could pose significant challenges... on Capitol Hill, lawmakers are pushing a bill, known as the Enablers Act, that would require investment advisers to identify and more carefully vet their customers.”

### The Washington Post

#### The search for oligarchs' wealth in U.S. is hindered by investment loopholes

“...Under current law, private equity firms and hedge firms do not need to verify their investors' identities or how they made their money... Last fall, a small group of U.S. lawmakers proposed a bill to include art dealers, investment advisers and others under anti-money laundering rules.”

## **FURTHER RESOURCES:**

- Washington Post: [Lawmakers call for crackdown on financial 'enablers' after Pandora Papers](#)
- New York Times: [How One Oligarch Used Shell Companies and Wall Street Ties to Invest in the U.S.](#)
- ABC News: [With oligarchs in the crosshairs, alleged Western 'enablers' attract fresh scrutiny](#)
- Washington Post: [The search for oligarchs' wealth in U.S. is hindered by investment loopholes](#)
- Newsweek: [Biden Wants to Crack Down on Foreign Corruption. Here's How](#)
- Hudson Institute Kleptocracy Initiative: [Targeting Putin's Kleptocracy](#)
- ICIJ: [How a network of enablers have helped Russia's oligarchs hide their wealth abroad](#)
- Just Security: [U.S. Real Estate Secrecy Links Global Corruption, Domestic Inequality](#)
- Helsinki Commission Briefing: [Enabling Kleptocracy](#)

## **BACKGROUND:**

Modern dictators like Putin and Xi rely on access to the West. Lawyers, investment advisors, consultants, and other enablers help kleptocrats and human rights abusers launder their money and reputations in exchange for dirty money. Without the energetic assistance of these *enablers*, or *gatekeepers*, corrupt individuals could not move their money to western democracies and would be forced to live under the repressive systems they have created.

In direct response, the ENABLERS Act gives Treasury Dept the authority to require these industries to establish anti-money laundering programs. This isn't new: America's banks are *already* required to complete due diligence on trillions of dollars, ensuring money they accept isn't the proceeds of a crime or facilitating terrorism, human trafficking..etc. Other professionals handling money must do the same.

Multiple investigations, including most recently the *Pandora Papers*, have revealed how ["the United States, in particular, has become an increasingly attractive destination for hidden wealth."](#) These investigations into the hidden wealth of foreign dictators, their associates, and other corrupt officials point to the hundreds of US-based trusts, investment funds, and advisors that help create this system of offshore dirty money.

- Members of Putin's inner circle and individuals listed on the Navalny 35 list of human rights abusers and kleptocrats, [Konstantin Ernst](#) and [Gennady Timchenko](#), used offshore companies and enablers to engage in a \$230 million sweetheart real estate deal, and received hundreds of millions of dollars in suspicious "loans," respectively.
- [Chinese Communist Party politician Feng Qiya](#) used an offshore company and enablers to trade U.S. stocks with \$2 million worth of illicit funds.

The ENABLERS Act is a common-sense response to this national security threat of money laundering, which ["through corruption of officials and legal systems, undermines free enterprise by crowding out the private sector, and threatens the financial stability of countries and the international free flow of capital."](#) Basic money laundering checks established through ENABLERS will ensure that U.S. professionals ask where suspicious funds come from and report concerns to Treasury.



## ENABLERS ACT

*Confronting the “Enablers” of International Money Laundering & Putin’s Kleptocrats*

*Rep Malinowski & Rep Salazar*

### **SECTION BY SECTION OPERATIVE ELEMENTS**

#### **Section 2 . Financial Institution definition adjustments + expanding anti money-laundering checks**

- **Authorization for new anti money-laundering obligations:** Authorizes Treasury Department to create rules imposing basic due diligence on source of funds and requiring anti-money laundering programs for a new set of enablers—including those engaged in financial advising, trust establishment and advising corporate formation...etc.
- **Requirement to establish new anti money-Laundering program obligations:** Establishes timeline for Treasury Department to establish new anti-money laundering program obligations and regulations for a defined set of entities/individuals. A basic due diligence program could be as simple as requirements to verify identity of clients and inquire whether suspicious funds are the proceeds of a crime.

#### **Section 3 . FinCEN Task Force + Gatekeepers Strategy:** Requirement for Treasury Department/FinCEN to establish a task force to:

- Develop a **multi-year strategy** to deal with enablers
- Designate Federal and State **enforcement agency/ies** for new AML obligations
- **Assess effectiveness of new and existing AML safeguards**
- Execute development and monitoring of a USG “Gatekeepers Strategy”



## ENABLERS ACT

*Confronting the “Enablers” of International Money Laundering & Putin’s Kleptocrats*

*Rep Malinowski & Rep Salazar*

### **FREQUENTLY ASKED QUESTIONS**

***Sorry—this sounds really complicated. What does ENABLERS really do?***

The bill would require a new set of middlemen to do basic due diligence on money flowing through their businesses—to try to determine if it contains ill-gotten gains or stolen funds. Right now, there are numerous “due diligence” requirements in place. Many of which were set up in the wake of 9/11 to eliminate the financial flows fueling international terrorism. For example, if you wire a lot of money from a bank in the Caymans, American banks will file a suspicious activity report. All this does is flag the transaction so everyone can make sure it’s going from one legitimate account to another. Another example is if you walk into a local bank with a suitcase of a million dollars to open an account, they’re obligated by law to ask you who you are, where the money came from, what your address is...etc.

***So, if these due diligence measures are already in place, then what’s the issue?***

The problem is that too many criminals, human rights abusers, and corrupt foreign officials found those “due diligence” requirements were making it harder to smuggle money into the United States. These individuals have now found *new* “ENABLERS”: private equity investments, hedge fund investments, perpetual trusts, and legal maneuvers that completely sidestep the prior requirements put in place to keep our country secure and free of corruption. With the ENABLERS Act, we’re closing the loopholes that remain open to terrorists, foreign dictators, militias, and cybercriminals.

***Isn’t this going to cause too much of a headache for American businesses—small-town law offices or financial advisors?***

Bottom line: NO. The vast majority of American businesses potentially affected are law-abiding contributors to our economy, and they know who their customers are and how they make money. Due diligence requirements are like when a traffic cop or customs officer asks “Hey, where are you headed? What’re you doing this weekend?” to get a sense of whether there’s something suspicious going on. They are generally simple forms that ask simple questions: Where did this money come from? What’s the intended use?

It doesn’t require the business to become their own investigator and uncover illegal money laundering—it only requires them to ask a few basic questions of their customers. If the customer looks queasy about filling out their address or occupation? And potentially takes their business elsewhere? Well, that’s probably a sign the due diligence is working.

***If it’s so simple, what makes you think expanded money laundering due diligence is going to make some big difference?***

Crooks go the easiest route. Right now, the easiest and safest way to hide and launder money is in Western democracies. What do you think would happen if a dictator hid his money in a different dictatorship? That’s right. It would be at risk of seizure by a different strongman. That’s why malign actors come with their ill-gotten gains to Western democracies with more effective legal systems. But as we’ve tightened

the screws, we've made it harder for them to use some of the previously easy money laundering tactics. When cash transfer companies were targeted for due diligence after 9/11, many crooks and terrorists stopped using them. When cash transactions at banks started getting second looks, many corrupt officials stopped going that route. But they've found new avenues to move their dangerous cash—it's time for us to adapt as well with updated legislation and regulations.

***But is money-laundering REALLY that serious of a threat?***

Yes. Money laundering is *the* tool of choice for dictators, criminals, and terrorists. Money laundering is how Putin has fomented social division and interferes in elections across Eastern Europe. Money laundering has kept his repressive regime afloat by paying off a network of cronies. Money laundering is how Putin paid for a militia of mercenaries to stymie U.S. policy in Libya. Money laundering is how ransomware attackers on U.S. oil pipelines get paid. Money laundering is how terrorists move money between fronts. Money laundering is how Chinese state-owned enterprises bribe corrupt officials in Africa and beat out American competitors.

And perhaps most importantly, money laundering reinforces the control of authoritarians, allowing them to easily move dirty money, pay off cronies and allies, and extend their rule.

In our own communities, money laundering leads to increases in the cost of living, job loss and urban decay, petty and organized crime, and human trafficking. America is the destination of choice for dirty money because our laws are out of date, threatening international and national security, as well as the security of the everyday American.

***What does this have to do with sanctions and the fight against Russian oligarchs?***

Everything. Take just one example: Roman Abramovich is an oligarch intimately connected to Putin who used Western investments, lawyers, and advisors to launder and hide his money. Recent reporting points to a US-based private equity company that helped hide millions of Abramovich's dollars in the United States.

While the letter of U.S. law may have been followed, the fact that billions of dollars that directly sustain the Putin regime were stashed in US investments raises serious questions about dirty money in American private equity investments. Namely, that the lack of due diligence requirements for American investment advisors actually *help* foreign rulers hide questionably-acquired wealth from the eyes of their own poor and oppressed citizens—making the United States complicit in reinforcing the corruption and ineffectiveness of authoritarian regimes around the world.

As the United States lays out firm foreign policy objectives linked to democracy and human rights, our out-of-date money laundering laws directly undermine these objectives by helping corrupt authoritarians to keep regime cronies and themselves happy, and their countries' people and American citizens poor.